

EXHIBIT
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TESTIMONY AS PROPONENT OF HB 161
SENATE JUDICIARY COMMITTEE, MARCH 11, 2011

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Mr. Chairman, members of the committee, I appear before you in firm support of the repeal of the medical marijuana act. My perspective is as a prosecutor in Montana for the past 32 years- first in Garfield County and then about a year and one half ago in Valley County. I was one of those at first that wondered if criminalization was necessary especially if the Montana voters had approved medical marijuana. That view changed very quickly as I sat through sentencing after sentencing of drug addicted felons using morphine and meth. They all had one thing in common – they started using marijuana at the age of 12 or 13. I have processed involuntary mental commitments which have about doubled in the past year and I noticed a common theme – the use of marijuana at an early age. The last mental commitment the person had acquired a medical marijuana card before his condition deteriorated. I have been involved with a number of dependent and neglect proceedings where the State had to take custody of children because drug addicted mothers walked away from their children and again there was a history of marijuana use. I prosecuted a probation revocation of a young man who had went to the Department of Corrections for sale of marijuana, had went through inpatient treatment in a long term facility, released to a halfway house and then to supervised pre-release. The day he was put on regular probation he immediately started using marijuana. His probation officer had no choice but to recommend recommitment to the Department of Corrections because he was addicted to marijuana. Yes she used those words. Lately when law enforcement arrests someone who possesses marijuana without a card, there invariably seems to be two pills-usually oxycodone, hydrocodone or morphine. They call them oxy's and hydro's on the street. Last year you are probably aware that 300 people died from overdosing on the illegal use of prescription drugs. What you probably don't know is how they use those drugs. They don't always take them orally. To get the bigger rush from the drugs, they crush the tablets to get rid of the time release elements and snort them and after this doesn't get the desired high they go the next step and heat them on a spoon, put them in a syringe and inject them. Most of the prisoners in our jail in northeastern Montana are IV drug users. Our campaign

against Meth has worked to a great degree. Now however we have steered our young people to a hallucinogenic drug listed on the most severe drug schedule we have, schedule I, which we now call medicine, that being marijuana and prescription drugs. The morphine addicts are similar to heroin addicts and actually go to heroin when they can't afford morphine any longer – it costs more than heroin. The morphine addictions are just as hard to treat as meth addictions.

I could go through all the legal issues contained in the medical marijuana act which has been described by the courts in other states as horrendously written, but I don't have the time. It was obviously written by out of state lawyers with one objective – the legalization of marijuana. I argued a suppression motion on Wednesday for a defendant who believes he can sell hashish to a patient who does not list him as a caregiver. We have been sued because we raided a marijuana grow operation and failed to leave 6 plants because we did not know the defendant had a marijuana card. The defendant argued that the other 12 plants were necessary for uninterrupted supply. Valley county passed the moratorium ordinance and the city of Glasgow banned sales of medical marijuana.

Lately I have focused on the effects of the drug on our young people. I have found an Australian study published on February 7, 2011 which show that the early use triggers schizophrenia and psychosis by bringing it on 2 or 3 years earlier. (Cannabis Use and Earlier Onset of Psychosis, Arch Gen Psychiatry, Published online February 7, 2011, doi:10.1001/archgenpsychiatry.2011.5) The extra time was critical because it could allow a youth to finish school and gain skills which might reduce the lifelong disability. "The results of the study confirm the need for a renewed public health warning about the potential for cannabis use to bring on psychotic illness." One study found that people over 18 years of age who used marijuana had twice the risk of mental illness and children under 15 had five times the risk. I have found that 9 % adults who use marijuana will become addicted but that for those under age 18, 30% will become addicted. That is a startling number. More young people ages 12-17 entered treatment in 2003 for marijuana dependency than for alcohol and all other illegal drugs combined. The effects of THC on the chemistry of young brains is still not fully known but there is a belief that smoking marijuana causes changes in the brain that are like those caused by cocaine and heroin. Lately I understand that marijuana is now the drug of choice in the high schools in Billings. High school users have lower achievement than non-users, more acceptance of deviant behavior, more delinquent behavior and aggression, greater rebelliousness, poor relationships with parents and more associations with drug using friends. There are studies that also report that weekly marijuana use among triples the incidence of suicidal thoughts. As you know Montana ranks second in the nation for suicide.

Adults have jobs that pay less and higher rates of unemployment. That is because marijuana affects the part of the brain that affects motivation. Long-term use shows lack of motivation – problems include not caring about what happens in their lives, no desire to work regularly, fatigue, lack of concern about how they look. The use of marijuana is now 2nd in the nation. The only state higher is Maine which was ranked 28th before it passed medical marijuana.

If we don't take this opportunity to repeal this atrocious law, we will see mental health treatment costs continue to increase, addiction rates climb, education suffer, the quality of our labor force suffer, more use of hard drugs, and more costs to incarcerate. If we repeal we can go back to the old system which is to let the FDA do its job and adopt drugs that have proven their benefits with trials and good science. Montana has no business being in the drug business. The FDA has already approved marinol years ago and is in the process of approved Sativex which is an inhaled version of components of marijuana. The FDA however is not likely to approve a smoke form of a drug that also happens to get you high. As Mark A.R. Kleinman, specialist in drug policy, UCLA, was quoted in Time, November 12, 2010, "It is inevitable that some form of measurable, dosable medical marijuana will be made available in the next few years, not in plant form but in a spray or inhaler. Canada and U.K. have approved Sativex, a cannabis based spray which has been effective for pain from MS spasms and cancer treatment without causing the marijuana high. (Late stage testing in U.S.)" Let's also realize that the vast majority (95% in my opinion) of the 28,000 card users are using the drug to get high. 2.7 % of Montanans have cards, only .03% in California. Also please remember that the repeal of medical marijuana will not repeal the availability of marijuana in Montana. It will still be here.

The following is the Statement of Anthony P. Placido, Special Agent in Charge of the New York Field Division of the U.S. Drug Enforcement Administration - June 15, 2004

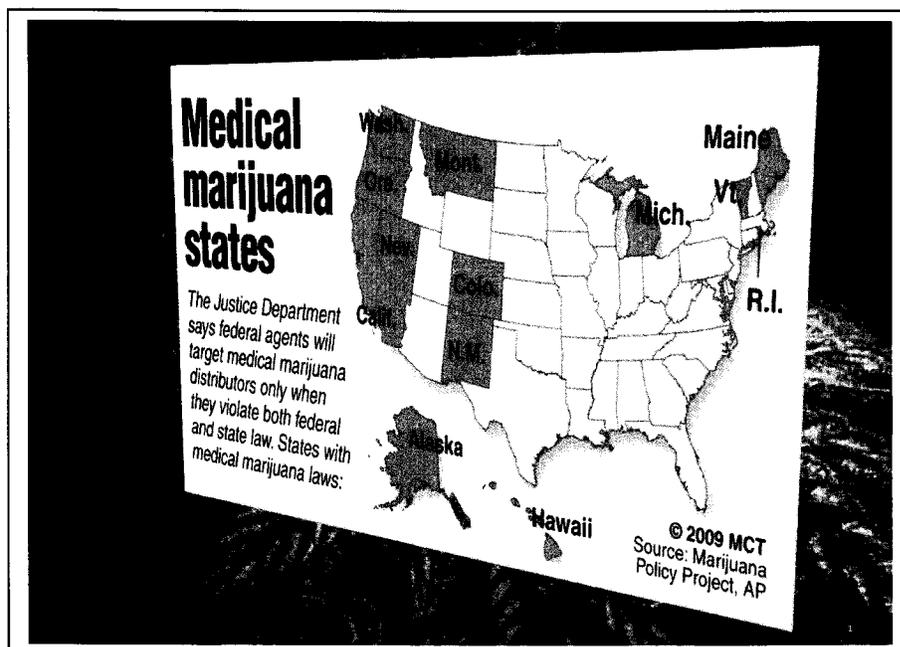
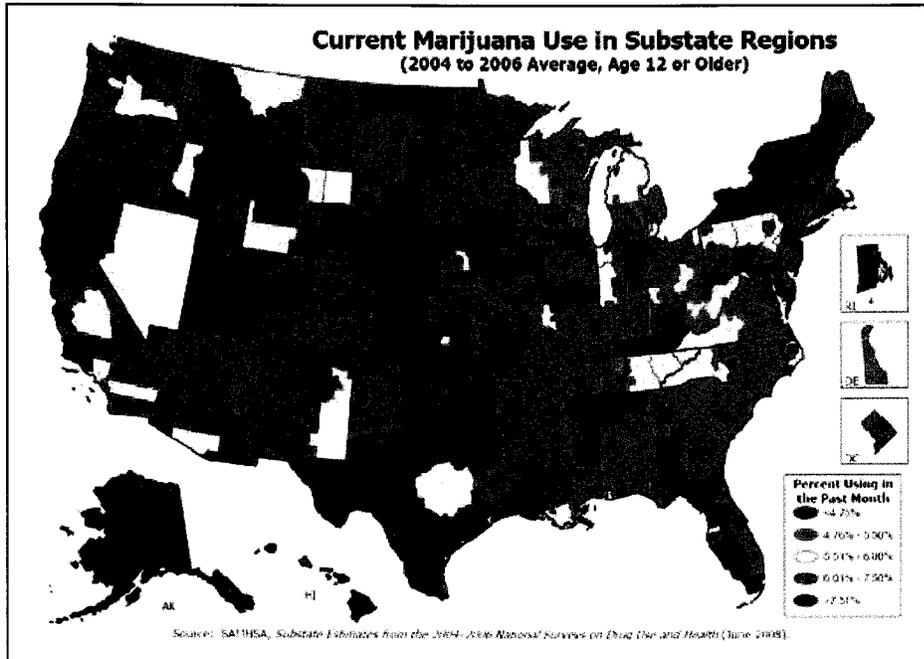
Governments are already overburdened with the challenges of regulating pharmaceutical drugs that are prescribed over the internet and dispensed via on-line pharmacies. The costs borne by taxpayers could be staggering, should governments attempt to regulate the production, prescription, dispensing and possession of a drug that can be cultivated in backyard gardens across the state. Governments would have to spend tens of millions to effectively regulate the use of marijuana in hope of aiding a tiny group of people who can already be treated with existing medicines, such as Marinol. But, the campaign to promote medical marijuana is not about alleviating suffering, its goal is

legalization. The organizers of the legalization movement hope governments will forego costly regulation and turn a blind eye to the problem.

And finally a note about those whose sufferings have been used to justify the legalization of marijuana. I have also observed suffering. I have observed the mother whose 17 daughter was in treatment for marijuana addiction and whose biggest fear was that at age 18 she would be able to get a card and there was nothing she could do about it. Ironically you can't legally drink until 21. Anyone who has had to deal with addictions will understand that they have to be treated every day for the rest of the person's life. I think of the family members of the 62 people who died in traffic accidents in 2007 and 2008 which were linked to levels of THC in the blood-those amount to 20% of fatalities and I can verify that I continue to see increased levels of THC in the DUI's I prosecute in Valley County. There are the family members of the 300 people who died from prescription drug overdoses last year. I have seen the suffering and it is caused by Marijuana and it needs to stop and the best way we can help is to repeal this act now.

1. MONTANA'S ABUSE OF MARIJUANA CONTRIBUTED TO THE ADOPTION OF MEDICAL MARIJUANA IN 2004.

The maps demonstrate that those states with higher rates of marijuana abuse are the ones who passed medical marijuana acts. It had very little to do with medical need.



2. WE HAVE THE PROBLEM BECAUSE OF TWO VIOLATIONS OF THE RULE OF LAW:

The first violation was the passage of the medical marijuana act by an initiative process which essentially nullified two federal laws – federal laws prohibiting possession and sale of marijuana and the laws dating back to the 1906 Pure Food and Drug Act and the approval of prescription drugs after documented trials proving that the benefits outweigh the risks.

The second violation was the statement by the US Attorney General that the federal government would not use resources to enforce marijuana laws in those states which adopted medical marijuana laws. In other words we will enforce the laws of the U.S. in the 35 states without medical marijuana but not in the other 15.

3. THE PROCESS USED TO ADOPT MEDICAL MARIJUANA HAS VIOLATED EVERY STANDARD NORMALLY USED TO APPROVE MEDICATIONS:

How many other medicines that people take:

1. Are smoked?
2. Come in unmeasured doses?
3. Have unknown strengths?
4. Are taken as often as patient thinks needed?
5. Are taken in crude form?
(like aspirin from tree bark, penicillin from bread mold)
6. Are voted on by the public?
7. Circumvent safety of FDA New Drug Unit testing?
8. Are “recommended” by doctors, not prescribed?
9. Allow a person to grow or produce their own medicine?
10. Exempt from current controls or inspection of dispensing “pharmacy”? Product liability recovery limited?
11. Allow some unnamed dooper dude to hold patients stash/medicine?
12. Not eligible for reimbursement by insurance, medicare or Medicaid

4. MEDICAL MARIJUANA ALREADY EXISTS. IT'S CALLED MARINOL

A pharmaceutical product, Marinol, is widely available through prescription. It comes in the form of a pill and is also being studied by researchers for suitability via other delivery methods, such as an inhaler or patch. The active ingredient of Marinol is synthetic THC, which has been found to relieve the nausea and vomiting associated with chemotherapy for cancer patients and to assist with loss of appetite with AIDS patients. Unlike smoked marijuana--which contains more than 400 different chemicals, including most of the hazardous chemicals found in tobacco smoke--Marinol has been studied and approved by the medical community and the Food and Drug Administration (FDA), the nation's watchdog over unsafe and harmful food and drug products. Since the passage of the 1906 Pure Food and Drug Act, any drug that is marketed in the United States must undergo rigorous scientific testing. The approval process mandated by this act ensures that claims of safety and therapeutic value are supported by clinical evidence and

keeps unsafe, ineffective and dangerous drugs off the market.

5. MARINOL HAS MANY OF THE SAME DANGERS AS MARIJUANA LISTED AS A WARNING:

MARINOL is not indicated as first-line treatment for nausea and vomiting associated with cancer chemotherapy;

Patients taking MARINOL should remain under the supervision of a responsible adult during initial use and following dosage adjustments;

Patients using MARINOL should be advised of possible changes in mood and other adverse behavioral or disturbing psychotomimetic reactions and they should be instructed to report these changes to their healthcare provider;

MARINOL is a medication with a potential for abuse

The risk/benefit ratio of MARINOL use should be carefully evaluated in the following types of patients for the reasons stated below:

- *Patients with cardiac disorders, because of occasional hypotension, hypertension, syncope, or tachycardia;*
- *patients with a history of substance abuse, including alcohol abuse or dependence;*
- *patients with mania, depression, or schizophrenia because MARINOL may exacerbate these illnesses; these patients should undergo careful psychiatric monitoring during therapy; and*
- *patients receiving concomitant therapy with sedatives, hypnotics, or other psychoactive drugs because of the potential for addictive or synergistic CNS effects.*

6. MARIJUANA IS STILL LISTED AS A SCHEDULE 1 DRUG:

Marijuana is listed in schedule I of the Controlled Substances Act (CSA), the most restrictive schedule. The Drug Enforcement Administration (DEA), which administers the CSA, continues to support that placement and FDA concurred because marijuana met the three criteria for placement in Schedule I under 21 U.S.C. 812(b)(1):

- marijuana has a **high potential for abuse**,
- has no **currently accepted medical use** in treatment in the United States, and
- has a **lack of accepted safety** for use under medical supervision).

FDA has not approved smoked marijuana for any condition or disease indication.

7. MEDICAL MARIJUANA IS STILL OPPOSED BY SEVERAL MEDICAL ASSOCIATIONS AND THE BENEFITS ARE STILL BEING DEBATED:

a. Opposed by or recommend further study:

- American Medical Association
- The Institute of Medicine
- National Multiple Sclerosis Society
- Center for Medical Cannabis Research
- British Medical Association
- American Lung Association
- American Glaucoma Society

- b. John Walters, Director of the US Office of National Drug Control Policy, wrote in a Sep. 27, 2004 article in the *National Review*:
- "The truth is, there are laws against marijuana because marijuana is harmful. With every year that passes, medical research discovers greater dangers from smoking it, from links to serious mental illness to the risk of cancer, and even dangers from in utero exposure. In fact, given the new levels of potency and the sheer prevalence of marijuana (the number of users contrasted with the number of those using cocaine or heroin), a case can be made that marijuana does the most social harm of any illegal drug."*
- c. The Eagle Forum stated in its online brochure, "Facts You Need to Know About ... Marijuana," (accessed Mar. 31, 2006):
- "Medical evidence has proven that marijuana is highly dangerous, in and of itself. It seriously harms the brain, the chromosomes, the sex and reproductive organs, the hormones, the lungs, and the immune system.... There is no legitimate need for marijuana as medicine...*
- Cancer patients receiving chemotherapy often die from infection because chemotherapy weakens the body's immune defenses. THC reduces the nausea experienced by chemotherapy patients, but can be dangerous to these patients because THC also damages the immune system"*
- d. American Medical Association; *"Our AMA urges that marijuana's status as a federal Schedule I controlled substance be reviewed with the goal of facilitating the conduct of clinical research and development of cannabinoid-based medicines, and alternate delivery methods. This should not be viewed as an endorsement of state-based medical cannabis programs, the legalization of marijuana, or that scientific evidence on the therapeutic use of cannabis meets the current standards for a prescription drug product."* Nov. 10, 2009
- e. The American Cancer Society "does not advocate inhaling smoke, nor the legalization of marijuana," although the organization does support carefully controlled clinical studies for alternative delivery methods, specifically a THC skin patch.
- f. The American Academy of Pediatrics (AAP) believes that "[a]ny change in the legal status of marijuana, even if limited to adults, could affect the prevalence of use among adolescents." While it supports scientific research on the possible medical use of cannabinoids as opposed to smoked marijuana, it opposes the legalization of marijuana. From a public health perspective, even a small increase in use, whether attributable to increased availability or decreased perception of risk, would have significant ramifications.
- g. The National Multiple Sclerosis Society (NMSS) states that studies done to date "have not provided convincing evidence that marijuana benefits people with MS," and thus marijuana is not a recommended treatment. Furthermore, the NMSS warns that the "long-term use of marijuana may be associated with significant serious side effects."

- h. The British Medical Association (BMA) voiced extreme concern that down-grading the criminal status of marijuana would "mislead" the public into believing that the drug is safe. The BMA maintains that marijuana "has been linked to greater risk of heart disease, lung cancer, bronchitis and emphysema." The 2004 Deputy Chairman of the BMA's Board of Science said that "[t]he public must be made aware of the harmful effects we know result from smoking this drug
- i. In 1999, The Institute of Medicine (IOM) released a landmark study reviewing the supposed medical properties of marijuana. The study is frequently cited by "medical" marijuana advocates, but in fact severely undermines their arguments.
- After release of the IOM study, the principal investigators cautioned that the active compounds in marijuana may have medicinal potential and therefore should be researched further. However, the study concluded that "there is little future in smoked marijuana as a medically approved medication."
 - For some ailments, the IOM found "...potential therapeutic value of cannabinoid drugs, primarily THC, for pain relief, control of nausea and vomiting, and appetite stimulation." However, it pointed out that "[t]he effects of cannabinoids on the symptoms studied are generally modest, and in most cases there are more effective medications [than smoked marijuana]."
 - The study concluded that, at best, there is only anecdotal information on the medical benefits of smoked marijuana for some ailments, such as muscle spasticity. For other ailments, such as epilepsy and glaucoma, the study found no evidence of medical value and did not endorse further research.
 - The IOM study explained that "smoked marijuana . . . is a crude THC delivery system that also delivers harmful substances." In addition, "plants contain a variable mixture of biologically active compounds and cannot be expected to provide a precisely defined drug effect." Therefore, the study concluded that "there is little future in smoked marijuana as a medically approved medication."
 - The principal investigators explicitly stated that using smoked marijuana in clinical trials "should not be designed to develop it as a licensed drug, but should be a stepping stone to the development of new, safe delivery systems of cannabinoids."
8. DEA HAS APPROVED AND WILL CONTINUE TO APPROVE RESEARCH INTO WHETHER THC HAS ANY MEDICINAL USE.
- As of May 8, 2006, DEA had registered every one of the 163 researchers who requested to use marijuana in studies and who met Department of Health and Human Services standards.
 - One of those researchers, The Center for Medicinal Cannabis Research (CMCR), conducts studies "to ascertain the general medical safety and efficacy of cannabis and cannabis products and examine alternative forms of cannabis administration."
 - The CMCR currently has 11 on-going studies involving marijuana and the efficacy of cannabis and cannabis compounds as they relate to medical conditions such as HIV, cancer pain, MS, and nausea

- The following are studies currently being conducted at the Center for Medicinal Cannabis Research (CMCR) at the University of California:
 - Efficacy of Inhaled Cannabis in Diabetic Painful Peripheral Neuropathy Barth Wilsey, M.D. UCD
 - The Analgesic Effect of Vaporized Cannabis on Neuropathic Pain in Spinal Cord Injury
 - Cannabis for Treatment of HIV-Related Peripheral Neuropathy Donald Abrams, M.D. UCSF
 - Vaporization as a Smokeless Cannabis Delivery System Jody Corey-Bloom, M.D., Ph.D. UCSD
 - Short-Term Effects of Cannabis Therapy on Spasticity in MS Sean Drummond, Ph.D. UCSD
 - Sleep and Medicinal Cannabis Ronald Ellis, M.D., Ph.D. UCSD Placebo-controlled, Double Blind Trial of Medicinal Cannabis in Painful HIV Neuropathy Thomas Marcotte, Ph.D. UCSD
 - Impact of Repeated Cannabis Treatments on Driving Abilities Ian Meng, Ph.D. UCSF
 - Mechanisms of Cannabinoid Analgesia Daniele Piomelli, Ph.D. UCI
 - Effects of Cannabis Therapy on Endogenous Cannabinoids Rachel Schrier, Ph.D. UCSD
 - Effects of Medicinal Cannabis on CD4 immunity in AIDS Mark Wallace, M.D. UCSD
 - Analgesic Efficacy of Smoked Cannabis Barth Wilsey, M.D. UCD Double Blind, Placebo Controlled Trial of Smoked Marijuana on Neuropathic Pain

9. TECHNOLOGY WILL MAKE MEDICAL MARIJUANA OBSOLETE

It is inevitable that some form of measurable, dosable medical marijuana will be made available in the next few years, not in plant form but in a spray or inhaler. Canada and U.K. have approved Sativex, a cannabis based spray which has been effective for pain from MS spasms and cancer treatment without causing the marijuana high. (Late stage testing in U.S.) Mark A.R. Kleinman, specialist in drug policy, UCLA, Time, November 12, 2010

10. MARIJUANA HARMS THE BRAIN

- THC affects nerve cells in brain where memories are formed – this makes it hard for the user to recall recent events
- Long-term use shows lack of motivation – problems include not caring about what happens in their lives, no desire to work regularly, fatigue, lack of concern about how they look;
- Heavy users show signs of dependency – withdrawal symptoms include restlessness, loss of appetite, trouble sleeping, weight loss and shaky hands;
- On February 7, 2011 an Australian study found that cannabis use precipitate schizophrenia and other psychotic disorders; alcohol use was not associated with the onset of the illness. The results of the study provide strong evidence that reducing cannabis use could delay or even prevent some cases of psychosis. The results of the study confirm the need for a renewed public health warning about the potential for cannabis use to bring on psychotic illness.

11. MARIJUANA KILLS PEOPLE.

In 2007-2008 there were 62 traffic fatalities (20%) where blood THC content was the contributing factor.

12. MARIJUANA IS A GATEWAY DRUG.

- Studies show very few young people use other drugs without first trying marijuana
- The risk of using cocaine is 104 times greater

13. MARIJUANA AFFECTS OUR YOUTHS EDUCATION

High school users have lower achievement than non-users, more acceptance of deviant behavior, more delinquent behavior and aggression, greater rebelliousness, poor relationships with parents and more associations with drug using friends

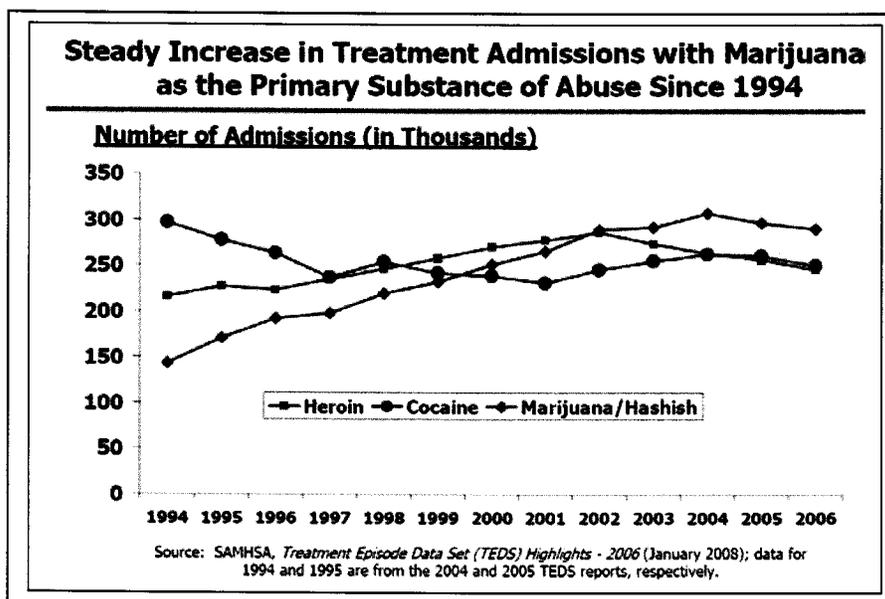
14. MONTANA'S USE OF MEDICAL MARIJUANA IS 3 TIMES THE NEXT HIGHEST STATE:

Percent with marijuana cards 2011

Oregon	.95%
Montana	2.7%
Colorado	.62%
Alaska	.13%
California	.03%

15. MARIJUANA IS ADDICTING AND OUR YOUTH ARE MOST AT RISK.

One of my first cases involved a young man who had been through inpatient treatment in the Department of Corrections, half way house and a pre-release center. Immediately after getting out of supervision he started using marijuana again. He went back to prison because he was seriously addicted to Marijuana. Since 2002 more people have been treated for Marijuana addiction than hereoin or cocaine – almost 300,000 cases in 2006.



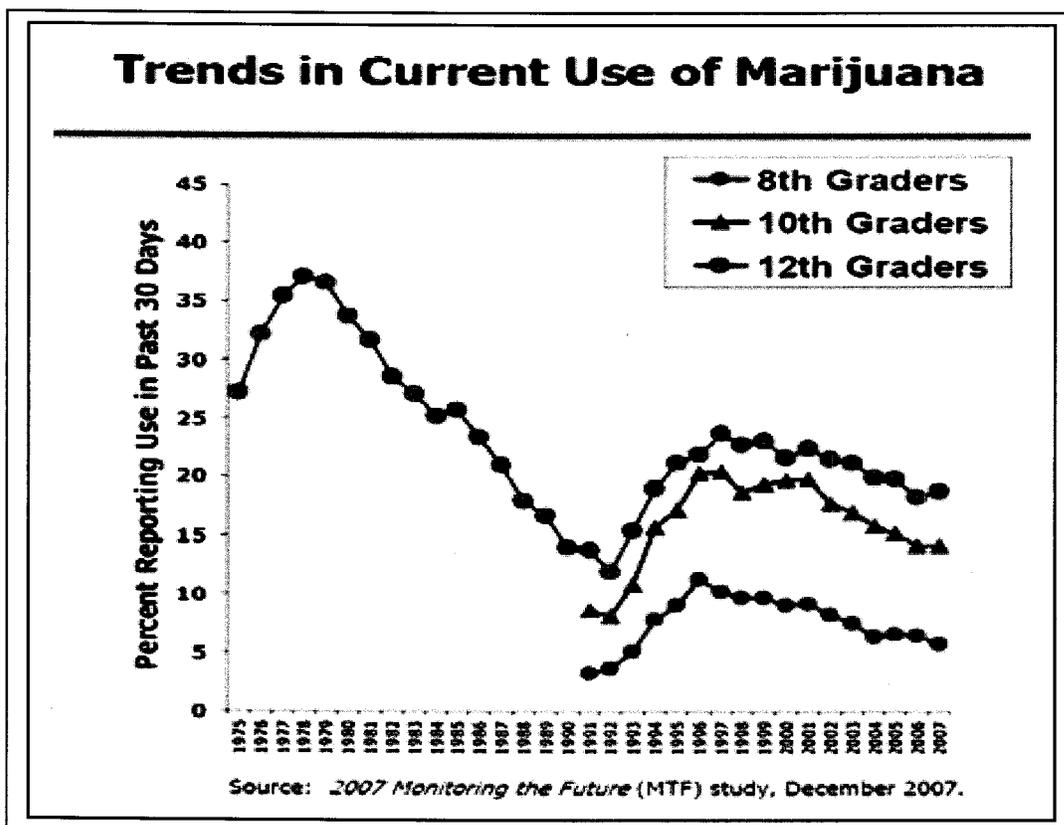
Adolescents are at highest risk for marijuana addiction, as they are "three times more likely than adults to develop dependency." This is borne out by the fact that treatment admission rates for adolescents reporting marijuana as the primary substance of abuse increased from 32 to 65 per cent between 1993 and 2003. More young people ages 12-17 entered treatment in 2003 for marijuana dependency than for alcohol and all other illegal drugs combined.

16. LEGALIZATION WOULD ONLY INCREASE USAGE

- In 1975, Alaska's Supreme Court held that under their State Constitution an adult could possess marijuana for personal consumption in the home.

- The court's ruling became a green light for marijuana use. A 1988 University of Alaska survey showed that the state's teenagers used marijuana at more than **twice** the national average for their age group.
- Fed up with this dangerous experiment, Alaska's residents voted in 1990 to recriminalize possession of marijuana. But 15 years of legalization left its mark-increased drug use by a generation of our youth

17. WHEN OUR YOUTH THINK MARIJUANA IS NOT HARMFUL, USAGE INCREASES. From 1978 to 1992 usage decreased. Since that time it has increased. It could be argued that the efforts of law enforcement and the so-called war on drugs was working for these years. It was only after the perceived risks from the use of Marijuana was reduced that the rate of use increased.



By characterizing the use of illegal drugs as quasi-legal, state-sanctioned, Saturday afternoon fun, legalizers destabilize the societal norm that drug use is dangerous. They undercut the goals of stopping the initiation of drug use to prevent addiction.... Children entering drug abuse treatment routinely report that they heard that 'pot is medicine' and, therefore, believed it to be good for them." *Andrea Barthwell, MD, Former Deputy Director, White House Office of National Drug Control Policy (ONDCP), Chicago Tribune editorial, Feb. 17, 2004*

18. MONTANA HAS SPENT MILLIONS OF DOLLARS TO BENEFIT A SMALL NUMBER. Almost every community has been hit with the issue with several passing ordinances either banning the sale of medical marijuana or issuing a moratorium with the hope that the Montana Legislature would do the right thing. That is what Valley County did this past year.